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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/781,395

02/18/2004

John H. Gillen

1-15972

1873

1678 7590 10/09/2008  
MARSHALL & MELHORN, LLC  
FOUR SEAGATE - EIGHTH FLOOR  
TOLEDO, OH 43604

EXAMINER

REDMAN, JERRY E

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

10/09/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/781,395	<b>Applicant(s)</b> GILLEN, JOHN H.	
	<b>Examiner</b> Jerry Redman	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 August 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

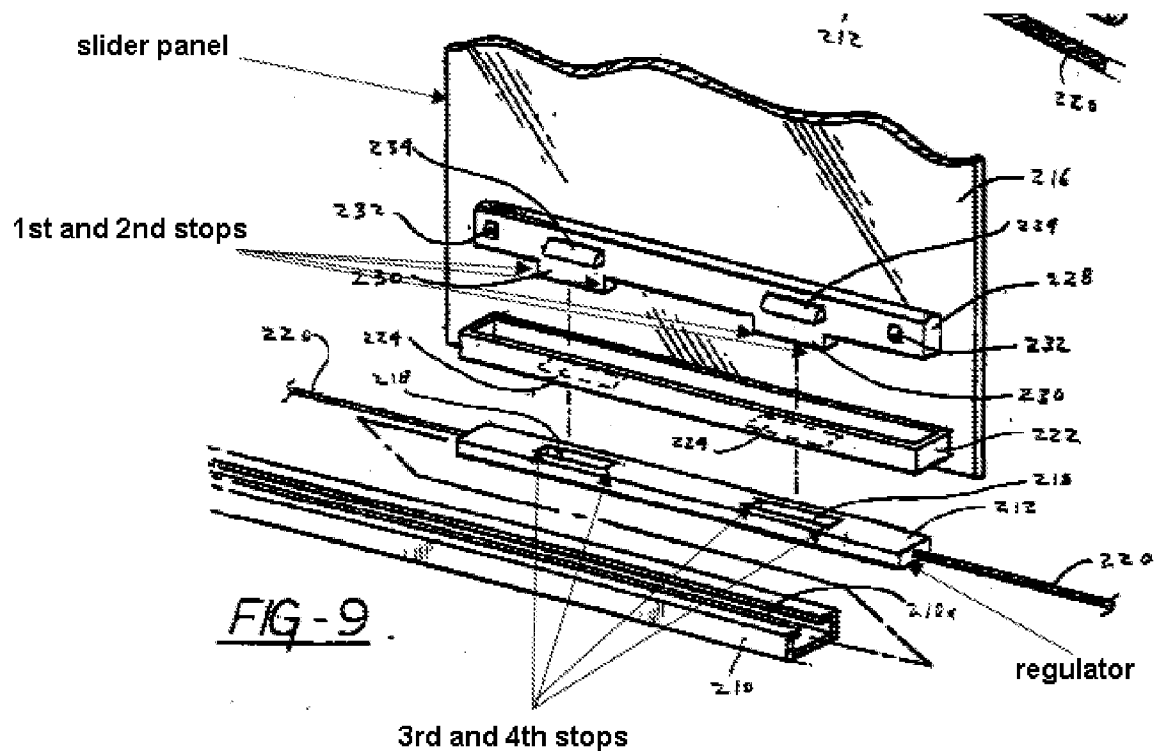
- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6-8, 12, and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Koneval et al., (6,324,788 B1). As shown in Figure 9 below, Koneval et al. (6,324,788 B1) disclose a powered slider drive interface for opening and closing a vehicle slider panel (216) across a window aperture of a back-lite of a vehicle (see figure 1 for the vehicle and back-lite) comprising a slider panel (216), a regulator/driver bracket (212), at least first, second, third, and fourth mechanical stops mounted on the slider panel (216) and the regulator (212), slider/guide tracks (210/18, column 3, line 41) positioned above and below the slider panel (216), a cable (220) mounted on each end of the regulator/driver bracket (212) such that as the electric reversible motor (24) drives the cable (220) to and fro, the stops are brought into mechanical contact with one another to thereby move the sliding panel (216) across the opening/aperture of a vehicle back-lite. Koneval et al. (6,324,788 B1) further discloses the slider panel (216) has being removable and therefore there has to be some "space" between the stops (shown below) from the projections (230) and the mounting slots (218) (as shown below, column 6, lines 24-48).



The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5, 9-11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koneval et al., (6,324,788 B1) in view of MacMillan (6,435,636 B1) and Hirsch et al United States Patent number 6207911. All of the elements of the instant invention are discussed in detail above except providing a EDPM plastic bumper. MacMillan (6,435,636 B1) discloses a plastic bumper combination thereof.

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And Hirsch et al United States Patent number 6207911 teaches that EPDM is a durable and energy absorbing bumper material, suitable for use in automobiles.

15 Preferably, the bumper body is formed of a flexibly resilient and semi-rigid material appropriate for the door-stopping function thereof, such as, e.g., rubber or a suitable elastomer. A preferred material for the bumper body is an EPDM (ethylene propylene diene monomer) elastomer.

The bumper body 16 is formed of a resilient yet semi-rigid material, which may be rubber or a durable elastomer. A preferred material for the bumper body is an EPDM (ethylene propylene diene monomer) elastomer. The bumper body 16 is of a strength and thickness sufficient to make it durable enough to serve as a door stop, or energy absorbing damper, when in place in a vehicle.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Koneval et al., ('788) with a plastic bumper as taught by MacMillan (6,435,636 B1) and Hirsch et al United States Patent number 6207911 since an EPDM bumper allows a smooth transition between starting and stopping of an element which is slide in a track.

The applicant's arguments have been considered but are not deemed persuasive. The applicant argues that as the claims are currently amended, a "space" is provided between the stops during sliding movement. Since the panel is taught be engaged and disengaged (elements 230 and 218) from one another, a space is provided between the projections and the slots which enables the panel to be disengaged. The applicant has claimed this "magical space" but has yet to provide

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specifics of the space, i.e., the amount of space. *Space* is defined as "the unlimited or incalculably great three-dimensional realm or expanse in which all material objects are located and all events occur" ([www.dictionary.com](http://www.dictionary.com)). Therefore, broadly recited, there is "space" between elements 230 and 218 when in the engaged position.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Redman whose telephone number is 571-272-6835. The examiner can normally be reached on M-F from 8 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Mitchell, can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jerry Redman  
Primary Examiner  
Art Unit 3634

/Jerry Redman/  
Primary Examiner, Art Unit 3634